

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3660

Report Summary

TO: Members of the Judicial Council

FROM: Probate and Mental Health Task Force
Hon. William A. McKinstry, Chair
Ben McClinton, 415-865-7711, and Patrick O'Donnell,
415-865-7665, Task Force Counsel

DATE: April 17, 2000

SUBJECT: Spousal Property Petition (revise Form DE-221) (Action Required)

Issue Statement

The *Spousal Property Petition* (Form DE-221) was previously revised in 1997, and the current version became effective January 1, 1998. Subsequently, Probate Code section 13651 was amended to require disclosure on the spousal property petition whether there did or did not exist a written agreement between the deceased spouse and the surviving spouse for a non pro rata division of the aggregate value of the community property assets or quasi-community assets, or both. Probate Code section 13651 was further amended to require that, if the petition bases the description of the property to be confirmed to the surviving spouse on such an agreement, a copy of the agreement shall be attached to the petition.

Recommendation

The Probate and Mental Health Task Force recommends that the Judicial Council, effective July 1, 2000, revise the *Spousal Property Petition* (Form DE-221) to conform to statutory changes.

Rationale For Recommendation

The proposed revisions to the *Spousal Property Petition* would bring this form into conformity with the recent amendments to the Probate Code.

Alternative Actions Considered

There are no reasonable alternatives because the revisions are required to conform the petition to the amended statute.

Comments From Interested Parties

The *Spousal Property Petition* was previously revised effective January 1, 1998, after being circulated for public comment. Because the new revisions are purely technical and intended to bring the form into conformity with new statutory requirements, the Rules and Projects Committee has recommended that the council revise form DE-221, effective July 1, 2000, without circulating it for comment.

Implementation Requirements And Costs

Courts will need to replace copies of current Form DE-221 with the revised form, which will result in some costs.

A copy of revised Form DE-221 is attached at pages 3-4.